

REMARKS

This responds to the Office Action mailed on August 22, 2008.

Claims 25 and 52 are amended, claims 5 and 26-40 are cancelled, and no claims are added; as a result, claims 1-4, 6-25, and 41-53 are now pending in this application.

§101 Rejection of the Claims

Claims 25 and 52 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Office Action requires correction of claim 25 to claim "a single statutory class of subject matter"¹ and correction of claim 52 to recite "a tangible embodiment containing instructions necessary to cause a computer to execute the claimed processes."² Accordingly, claims 25 and 52 are amended. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

§112 Rejection of the Claims

Claims 25 and 52 were rejected under 35 U.S.C. §112 as being "indefinite for failing to particularly point and distinctly claim the subject matter which [Applicants] regard as the invention."³ The Office Action requires correction of claims 25 and 52.⁴ Accordingly, claims 25 and 52 are amended. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

§103 Rejection of the Claims

Claims 1-3, 6-10, 12, 14-22, 24, 25, 46-48, and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay (Paper #20070530, PTO-892, Item:U; hereinafter, "eBay"), in view of Suzuki (U.S. Patent No. 5, 418, 949; hereinafter, "Suzuki"), in further view of BidnBuy (Paper #20080811, PTO-892, Item: U; hereinafter, "BidnBuy"). A determination of obviousness requires a factual showing that "the subject matter as a whole would have been

¹ Office Action, page 3.

² *Id.*

³ *Id.*, at page 4.

⁴ *Id.*

obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."⁵

Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined.⁶

Applicants respectfully submit that the Office Action did not establish a determination of obviousness for the reason that the scope and content of the cited references, even if combined, do not teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention.

Independent claim 1 recites, in part, "*generating a map file to store a first plurality of records, the first plurality of records respectively storing summarizing information for a first plurality of offerings . . .*"⁷ The Office Action explicitly states that ". . . *eBay does not mention . . . generating a map file . . .*"⁸ Applicants agree. In support of the §103 rejection, however, the Office Action asserts that, "Suzuki . . . teaches a file storage management system comprising a relation-classified *page map file*, *metamap file* and *relation group definition file* used to group records having data items relevant to each other and retrieving such related records to facilitate processing efficiency," citing the abstract; Fig. 2; col. 3, line 20-col., line 5; and col. 4, line 55-col. 5, line 51 of Suzuki.⁹ Applicants respectfully disagree.

First, the "*page map file*" of Suzuki does not constitute a "*map file*," as recited in the specification and in independent claim 1. Although the Examiner may interpret claims as broadly as their terms reasonably allow, "during examination proceedings, claims are given their broadest reasonable interpretation *consistent with the specification*."¹⁰ Suzuki describes "a *page map file* storing information representing *positions* at which data pages and empty pages are positioned *in the file . . .*"¹¹ Suzuki later states that "[p]age map information is stored in the

⁵ *Graham v. John Deere*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966).

⁶ *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. ___, 82 U.S.P.Q.2d 1385 (2007).

⁷ Claim 1, emphasis added.

⁸ Office Action, page 5, emphasis added.

⁹ *Id.*

¹⁰ *In re Hyatt*, 211 F.3d 1367, 1372, 54 U.S.P.Q.2d 1664, 1667 (Fed. Cir. 2000), citing *In re Graves*, 69 F.3d 1147, 1152, 36 U.S.P.Q.2d 1697, 1701 (Fed. Cir. 1995), emphasis added.

¹¹ Suzuki, col. 3, lines 40-43, emphasis added.

relation-classified *page map file*, the page map information *indicating a used/empty state* of each data page in the data file and *indicating an empty identification information* for a data page in the empty state and relation identification of relation stored in a data page in the used state."¹² In stark contrast, claim 1 discusses, in part, "a *map file* to store a first *plurality of records*, the first plurality of records respectively storing *summarizing information* for a first plurality of *offerings*."¹³ Neither storing a "*position*," nor indicating a "*used/empty state*" or an "*empty identification information*," is "[storing] *records* respectively storing *summarizing information* for . . . *offerings*," as discussed in the specification and in claim 1. Any attempt to equate the "*page map file*" of Suzuki with the "*map file*" of claim 1 is therefore inconsistent with the specification. As a result, Suzuki is silent with respect to a "*map file*," as recited in the specification and in claim 1. Thus, Suzuki fails to disclose at least this element.

Second, independent claim 1 recites, in part, "*generating* a map file."¹⁴ According to Suzuki, however, "[t]he file storage management system *includes* . . . a page map file"¹⁵ Suzuki states, with respect to Fig. 2 of Suzuki, that "[t]he management file *includes* a relation group defining file, a metamap file and a relation-classified page map file."¹⁶ Consequently, Suzuki discusses only *inclusion*, and not *generation*, of a "page map file." Assuming, without agreement and solely arguendo, that the "page map file" of Suzuki somehow constitutes a "map file," Suzuki is silent with respect to "*generating* a map file," as recited in claim 1. Thus, Suzuki fails to disclose at least this element.

Therefore, at least two elements of independent claim 1 and its dependent claims are absent from both eBay and Suzuki. Applicants cannot find within BidnBuy at least the elements shown to be absent from eBay and Suzuki. As a result, the scope and content of eBay, Suzuki, and BidnBuy, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

¹² Suzuki, col. 5, lines 33-39, emphasis added, internal references omitted.

¹³ Emphasis added.

¹⁴ Emphasis added.

¹⁵ Suzuki, abstract, emphasis added.

¹⁶ Suzuki, col. 4, lines 64-67, emphasis added, internal references omitted. *See also*, Suzuki, Fig. 2.

The above-stated arguments with respect to independent claim 1 are applicable to independent claims 7, 14, 18, 25, and 53, and their respective dependent claims. As a result, the scope and content of eBay, Suzuki, and BidnBuy, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

Claims 4 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay, Suzuki, and BidnBuy, in further view of Applicants' alleged "Admission (regarding parsing of universal resource locators)."¹⁷ Applicants cannot find within any alleged "Admission" at least the elements shown to be absent from eBay, Suzuki, and BidnBuy, with respect to independent claim 1, and Applicants invite the Examiner to specifically point to a passage believed to constitute the alleged Admission. Regardless, claim 4 depends from independent claim 1 and is patentable for at least the reasons stated above with respect to independent claim 1. The above-stated arguments with respect to independent claim 1 are applicable to independent claim 52. As a result, the scope and content of eBay, Suzuki, BidnBuy, and Applicants' alleged Admission, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

Claims 11 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay, Suzuki, and BidnBuy, in further view of McClenahen (Paper #20070530, PTO-892, Item: V; hereinafter, "McClenahen"). Applicants cannot find within McClenahen at least the elements shown to be absent from eBay, Suzuki, and BidnBuy. As a result, the scope and content of eBay, Suzuki, BidnBuy, and McClenahen, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay, Suzuki, and BidnBuy, in further view of Pollick (Paper #20041209, PTO-892, Item: VV;

¹⁷ Office Action, page 9.

hereinafter, "Pollick"). Applicants cannot find within Pollick at least the elements shown to be absent from eBay, Suzuki, and BidnBuy. As a result, the scope and content of eBay, Suzuki, BidnBuy, and Pollick, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

Claims 41-45 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay, Suzuki, and BidnBuy. Claims 41-45 and 49 depend from independent claim 1 and are patentable for at least the reasons stated above with respect to independent claim 1. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

Claims 50 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay, Suzuki, and BidnBuy, in further view of Faulkner (U.S. Patent No. 6,389,427; hereinafter, "Faulkner"). Applicants cannot find within Faulkner at least the elements shown to be absent from eBay, Suzuki, and BidnBuy. As a result, the scope and content of eBay, Suzuki, BidnBuy, and Faulkner, considered alone or in combination, fail to teach or suggest Applicants' claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach Applicants' claimed invention. Thus, Applicants respectfully request that these rejections be removed and the claims be allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at (408) 278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date November 24, 2008

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 24, 2008.

Name _____

Signature _____